

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Nov 02, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ANTOINE B.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

NO: 2:20-CV-76-RMP

ORDER DISMISSING COMPLAINT  
FOR FAILURE TO STATE A CLAIM

On May 4, 2020, the Court reviewed the legal sufficiency of Plaintiff Antoine B's<sup>1</sup> Complaint because Plaintiff is proceeding *in forma pauperis*. See 28 U.S.C. 76§1915(e)(2). When a litigant proceeds *in forma pauperis*, the district court is required to screen that litigant's complaint for legal sufficiency and must dismiss the action if it fails to state a claim upon which relief may be granted. *Id.* Upon review, the Court found that Plaintiff's Complaint did not state a claim upon which relief

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<sup>1</sup> In the interest of protecting Plaintiff's privacy, the Court will use Plaintiff's first name and last initial, and, subsequently, Plaintiff's first name only, throughout this decision.

1 may be granted because Plaintiff did not allege that the Appeals Council issued a  
2 decision in this case or that Plaintiff even sought review from the Appeals Council.  
3 ECF No. 7 at 2; *see* 42 U.S.C. § 405(g); *Sims v. Apfel*, 530 U.S. 103, 106–107  
4 (2000).

5 The Court granted Plaintiff sixty (60) days to submit a First Amended  
6 Complaint curing the deficiencies explained in the Court’s Order. ECF No. 7 at 4.  
7 The deadline expired on July 6, 2020, and Plaintiff has yet to amend or voluntarily  
8 dismiss his Complaint. Therefore, this case will be dismissed for failure to state a  
9 claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

10 Accordingly, **IT IS HEREBY ORDERED:** Plaintiff’s Complaint is  
11 **DISMISSED WITHOUT PREJUDICE.**

12 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this  
13 Order, enter a judgment of dismiss without prejudice, provide a copy to Plaintiff and  
14 to counsel, and **close this case.**

15 **DATED** November 2, 2020.

16  
17 *s/ Rosanna Malouf Peterson*  
18 ROSANNA MALOUF PETERSON  
19 United States District Judge  
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